

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE:

5171 CAMPBELLS, LAND CO., INC.

Bankruptcy No. 19-22715-CMB

Debtor,

Chapter 11

5171 CAMPBELLS LAND CO., INC.,

Document No.

Movant,

vs.

**GERALD R. FRY CO., INC., FIELD
CLUB COMMONS ASSOCIATES, LLC,
ASCENTIUM CAPITAL, LLC, IEMFS,
Ltd. d/b/a GSG FINANCIAL, HITACHI
CAPITAL AMERICA CORP., TRI STATE
EQUIPMENT CO., INC., WESBANCO
BANK, INC., STORE CAPITAL
ACQUISITIONS, LLC, STORE
MASTER FUNDING XIII, LLC,
US FOODS, INC., VISION FINANCIAL
GROUP, INC., PENNSYLVANIA
DEPARTMENT OF REVENUE, THE
NEW YORK DEPARTMENT OF TAXATION,
THE OHIO DEPARTMENT OF TAXATION,
AND THE INTERNAL REVENUE SERVICE,**

Respondents.

**EMERGENCY MOTION FOR SALE OF: (1) PERSONALTY; AND (2)
DEBTOR'S INTERESTS IN LAND LEASES WITH GERALD R. FRY CO., INC
AND FIELD CLUB COMMONS ASSOCIATES, LLC FREE AND CLEAR OF
ALL LIENS, CLAIMS AND ENCUMBRANCES**

AND NOW, comes 5171 Campbells Land Co., Inc., the Debtor, by and through its Counsel, Robert O Lampl, John P. Lacher, David L. Fuchs, Ryan J. Cooney and Sy O. Lampl, and files this **EMERGENCY MOTION FOR SALE OF: (1) PERSONALTY; AND (2) DEBTOR'S INTERESTS IN LAND LEASES WITH GERALD R. FRY CO., INC. AND FIELD CLUB COMMONS ASSOCIATES, LLC**

FREE AND CLEAR OF ALL LIENS, CLAIMS AND ENCUMBRANCES, as follows:

1. 5171 Campbells, Land Co., Inc. is the Debtor in the above Chapter 11 Case.

2. The Debtor commenced this Chapter 11 Case on July 8, 2019.

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. Section 1334, 28 U.S.C. Section 157 and 11 U.S.C. Section 363.

4. Prior to the bankruptcy filing, the Debtor operated twenty-seven (27) Perkins Restaurants in Pennsylvania, New York and Ohio pursuant to certain License Agreements with Perkins & Marie Callender's, LLC ("PMC") and various real property and land leases with: STORE Capital Acquisitions, LLC; STORE Master Funding XIII, LLC; Perkins Holdings, LLC; Gerald R. Fry Co., Inc.; 3D Acquisitions, LP; Field Club Commons Associates, LLC; and Elmhurst Properties, Inc.

5. Prior to the bankruptcy filing, PMC terminated the Debtor's License Agreements.

6. Since the bankruptcy filing, the Debtor and PMC have entered into a Revised Stipulation and Consent Order and Amendments to said Revised Stipulation and Consent Order (collectively "the Perkins Stipulation"), which, *inter alia*, allows the Debtor to operate twenty-one (21) of its twenty-seven (27) restaurants as Perkins through August 31, 2019 pursuant to a temporary license. See Doc. Nos. 28 & 106.

7. Additionally, the Perkins Stipulation allows the Debtor to operate its 6 other locations under a non-Perkins concept.

8. As of the filing of the within Motion, the Debtor is operating twenty-one (21) Perkins restaurants and two (2) non-Perkins restaurants. Thus, since the bankruptcy filing, the Debtor has closed four (4) of its restaurants: Cranberry, PA; Canfield, OH; Canton, OH; and Grove City, PA.

THE SALE

9. On August 22, 2019, the Debtor agreed to sell a portion of its business assets along with two (2) buildings that the Debtor owns subject to land leases to Paula Webster ("Webster") or an entity to be created by Webster.

10. Specifically, the Debtor agreed to sell all tangible personal property, machinery, equipment, tools, supplies, inventory, furniture and fixtures associated with the operations of its Greenville PA, and New Castle, PA restaurants ("the Personalty") along with its buildings located at 19 Greenville Plaza, Greenville, PA 16125 and 3334 Wilmington Road, New Castle, PA 16105 which the Debtor owns subject to land leases with Gerald R. Fry Co., Inc. and Field Club Commons Associates, LLC ("the Land Leases").

11. The total purchase price for the sale is \$160,000.00 payable as follows:

\$50,000.00 upon closing;

\$4,000.00 a month commencing October 3, 2019;

\$90,000.00 on March 3, 2020.

12. Under the proposed sale, Ms. Webster has the option to pay any cure costs associated with the Land Leases upon closing or to enter into new leases with Gerald R. Fry Co., Inc. and/or Field Club Commons Associates, LLC. Any cure costs paid by Ms. Webster will be in addition the purchase price. An offer email from Ms. Webster is attached hereto as **Exhibit A**.

13. Thus, if Ms. Webster elects to pay cure costs, the Debtor will be requesting that the Order approving the sale provide that the Debtor's interests in the land leases be assumed and assigned to Ms. Webster or an entity to be created by Ms. Webster pursuant to 11 U.S.C. § 365.

14. The Respondents which may hold liens, claims and encumbrances against the Personalty and the Land Leases are as follows:

- (a) The STORE Parties;
- (b) Ascentium Capital, LLC;
- (c) IEMFS, Ltd. d/b/a GSG Financial;
- (d) Hitachi Capital America Corp.;
- (e) Tri State Equipment Co., Inc.;
- (f) WesBanco Bank., Inc.;
- (g) Vision Financial Group, Inc.;
- (h) Pennsylvania Department of Revenue;
- (i) The Internal Revenue Service;
- (j) Gerald R. Fry Co., Inc.;
- (k) Field Club Commons Associates, LLC;
- (l) The New York Department of Taxation; and

(m) The Ohio Department of Taxation.

15. The Personalty and Land Leases are being sold as-is, where-is.

16. The Debtor believes, and therefore avers, that the proposed sale of the Personalty and its interests in the Land Leases is fair and reasonable and acceptance and approval of the same is in the best interest of this Estate.

**CAUSE EXISTS TO APPROVE THE SALE ON AN EMERGENCY BASIS AND
TO WAIVE CERTAIN COMPLIANCE WITH BANKRUPTCY RULES 6004(A),
6004(F) 6004(H), 2002(A)(2) AND LOCAL RULE 6004-1**

17. The Debtor submits that cause exists for the Court to approve this sale on August 29, 2019 and to waive any advertising or publication requirements set forth in the Bankruptcy Code or the Bankruptcy Rules, including Local Bankruptcy Rule 6004-1, with the exception of the requirement to upload the Notice of Sale to the EASI system.

18. The Debtor further submits that cause exists for shortening any notice period required by Bankruptcy rules 2002 and 6004.

19. As stated, the Debtor's temporary license under the Perkins Stipulation is set to expire on August 31, 2019.

20. Without a temporary license, the Debtor will be required to immediately suspend operations. Such a suspension will instantly diminish the value of the Debtor's assets. In fact, the Debtor does not expect that Ms. Webster would proceed with the sale if the Greenville and New Castle locations ceased operations prior to closing.

21. Without the proposed sale and the other sales that the Debtor is simultaneously proposing, the Debtor will not have sufficient funds to pay its last payroll, which under its normal operations, is fourteen (14) days in arrears. The Debtor also anticipates that it will lack sufficient funds to pay other administration such as professional fees and post-petition taxes.

22. Additionally, without the proposed sale, the employees of the Greenville and New Castle locations will be immediately terminated.

23. Further, without the proposed sale, the Debtor will most likely be forced to auction the Personalty, which will result in minimal value to the estate.

24. Finally, the Debtor submits that there are no other qualified bidders for the Greenville and New Castle locations.

WHEREFORE, the Movant respectfully requests that this Honorable Court enter the proposed Order approving the sale of the Personalty free and clear of all liens, claims and encumbrances.

Respectfully Submitted,

Date: August 22, 2019

/s/ Robert O Lampl
ROBERT O LAMPL
PA I.D. #19809
JOHN P. LACHER
PA I.D. #62297
DAVID L. FUCHS
PA I.D. #205694
RYAN J. COONEY
PA I.D. #319213
SY O. LAMPL
PA I.D. #324741
Counsel for the Debtor
223 Fourth Avenue, 4th Fl.
Pittsburgh, PA 15222
(412) 392-0330 (phone)
(412) 392-0335 (facsimile)
Email: rlampl@lampllaw.com

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE:

5171 CAMPBELLS, LAND CO., INC.

Bankruptcy No. 19-22715-CMB

Debtor,

Chapter 11

5171 CAMPBELLS LAND CO., INC.,

Document No.

Movant,

vs.

**GERALD R. FRY CO., INC., FIELD
CLUB COMMONS ASSOCIATES, LLC,
ASCENTIUM CAPITAL, LLC, IEMFS,
Ltd. d/b/a GSG FINANCIAL, HITACHI
CAPITAL AMERICA CORP., TRI STATE
EQUIPMENT CO., INC., WESBANCO
BANK, INC., STORE CAPITAL
ACQUISITIONS, LLC, STORE
MASTER FUNDING XIII, LLC,
US FOODS, INC., VISION FINANCIAL
GROUP, INC., PENNSYLVANIA
DEPARTMENT OF REVENUE, THE
NEW YORK DEPARTMENT OF TAXATION,
THE OHIO DEPARTMENT OF TAXATION,
AND THE INTERNAL REVENUE SERVICE,**

Respondents.

CERTIFICATE OF SERVICE

Robert O Lampl, hereby certifies that on the 22nd day of August, 2019, a true and correct copy of the foregoing **EMERGENCY MOTION FOR SALE OF:**
(1) PERSONALTY; AND (2) DEBTOR'S INTERESTS IN LAND LEASES WITH
GERALD R. FRY CO., INC. AND FIELD CLUB COMMONS ASSOCIATES, LLC
FREE AND CLEAR OF ALL LIENS, CLAIMS AND ENCUMBRANCES was

served upon the following (*via electronic service, facsimile or First Class U.S.*

Mail):

Office of the United States Trustee
1001 Liberty Avenue, Suite 970
Pittsburgh, PA 15222

Date: August 22, 2019

/s/ Robert O Lampl
ROBERT O LAMPL
PA I.D. #19809
JOHN P. LACHER
PA I.D. #62297
DAVID L. FUCHS
PA I.D. #205694
RYAN J. COONEY
PA I.D. #319213
SY O. LAMPL
PA I.D. #324741
Counsel for the Debtor
223 Fourth Avenue, 4th Fl.
Pittsburgh, PA 15222
(412) 392-0330 (phone)
(412) 392-0335 (facsimile)
Email: rlampl@lampllaw.com